IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

A. O. NO.629 OF 2006

Shri Vivek Arvind Marathe : Appellant.

versus

Shri Ajit Arvind Marathe

and others. : Respondents.

Mr.A.G.Damle for the appellant.

Mr.R.M.Pethe for Respondent Nos. 1 & 2.

Mr.R.S.Khadeparkar for Respondent No.3.

Mr.R.G.Ketkar for Respondent Nos. 4 and 5.

CORAM : D.G.DESHPANDE

DATED : JANUARY 12, 2007.

P.C.

1. Heard advocate for the appellant, who is the original plaintiff, and the advocates for the respondents.

2. The petitioner/plaintiff has filed a suit for a declaration that the defendants are not entitled to carry on any competing business. Copy of the plaint is annexed with this A.O. at

Exhibit B. Copy of application under Exhibit 5 for temporary injunction is also annexed. Similarly ad interim relief in terms of prayer clause (b) of the said application was asked for.

3. The trial Court after hearing the parties at length rejected that application. Hence this petition.

4. A perusal of impugned order shows that firstly the trial Court found that there was inordinate delay in filing the suit and applying for temporary injunction. Delay defeats equity of principle in such relief and, therefore that was one of the reason. Secondly, the trial Court also found that by the time suit was filed and application for temporary injunction was made, most of the business of the earlier partnership already stood transferred to the defendants and, therefore, nothing remained to be injuncted.

5. No fault can be found with the reasoning of the trail Court. Therefore, there is no merit in the A.O. A.O. is dismissed. No order as to costs. Civil Application No.831 of 2006 does not survive. It is disposed of.

[D.G.DESHPANDE,J]